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OLC 78-0399/127

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17 November 1978

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MEMORANDUM FOR:

[redacted]
Assistant General Counsel

FROM:

[redacted]
Assistant Legislative Counsel

SUBJECT:

'OLC Comments on Title II "Issues Paper"'


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1. This memorandum is written in response to a recent phone call from [redacted] who asked that subject comments be forwarded to you for inclusion in a memorandum to the DCI.

2. As I understand [redacted] request, OLC is to review the "Issues Paper" with a view to determining if any SCC Charter Working Group positions would be particularly onerous to the continued operation of this component. As you are well aware, the thrust and scope of Title II does not directly impact on the mission and function of OLC; rather, Title II concerns authorities for and limitations on the operational aspects of this Agency. To that extent, therefore, we defer to Agency operations components directly concerned. We would, however, like to register the following comments:

--The Working Group redraft contains no "bar on assassination" provision as contained in §134 of S. 2525. Politically, this may be one provision - the lack of any "bar on assassination" - that could well serve to unite Congressional support in opposition to other less controversial Administration positions, and therefore may be untenable. Moreover, it would appear that the Administration could avoid without prejudice embracing such a position since the extreme remedy of assassination would nonetheless be available via exercise of the Working Group's §261 "Presidential waiver" which could be used in wartime, during a period of hostilities or when it is determined that there is a threat to the national security from foreign power.

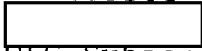

--OLC supports both the repeal of the Hughes-Ryan Amendment and the far less detailed procedural scheme with regard to special activities as advocated by the Working Group. The primary focus with regard to these matters should be to keep to an absolute minimum the proliferation of sensitive information and to avoid a cumbersome review and approval procedure.

--OLC supports the deletion of unnecessary and administratively burdensome reporting requirements which when viewed from a "totality of circumstances" perspective could be so oppressive as to undermine the flexibility otherwise authorized.


Assistant Legislative Counsel

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